

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ERICA L. H.,

Plaintiff,

vs.

Civ. No. 23-cv-00437 KRS

**MARTIN O'MALLEY,¹
Commissioner of the Social Security
Administration,**

Defendant.

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEY FEES
PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT**

The Court, having reviewed the parties' Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 (Doc. 29), HEREBY ORDERS that attorney fees be, and hereby are, awarded under the EAJA, payable to Plaintiff but mailed to Plaintiff's attorney in the amount of \$6,495.10 in attorney fees. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).



**KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE
Presiding by Consent**

¹ Martin O'Malley became the Commissioner of Social Security on December 20, 2023. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Martin O'Malley is hereby substituted for Kilolo Kijakazi as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).